

FILED
DISTRICT COURT OF GUAM

SEP - 7 2007

JEANNE G. QUINATA
Clerk of Court

JOHN T. GORMAN
Federal Public Defender
District of Guam

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Attorney for Defendant
NATHANIEL DIAZ PUNZALAN

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,)	CR-07-00075
)	
Plaintiff,)	MOTION TO WITHDRAW AS COUNSEL
)	
vs.)	
)	
NATHANIEL DIAZ PUNZALAN,)	
)	
Defendant.)	
)	

MOTION TO WITHDRAW AS COUNSEL

COMES NOW the defendant, NATHANIEL DIAZ PUNZALAN through counsel, Richard P. Arens, Assistant Federal Public Defender, and moves this Honorable Court to permit the Office of the Federal Public Defender to withdraw from further representation of NATHANIEL DIAZ PUNZALAN because of a conflict with at least one former client of the Office of the Federal

Public Defender.

This motion is based upon the attached Memorandum of Law and the Declaration of Counsel.

DATED: Mongmong, Guam, September 7, 2007.



RICHARD P. ARENS
Attorney for Defendant
NATHANIEL DIAZ PUNZALAN

MEMORANDUM OF LAW

The American Bar Association Model Rules of Professional Conduct (ABA MRPC), provide that a lawyer shall not reveal confidential information relating to the representation of a client unless the client consents. Rule 1.6, ABA MRPC. The Model Rules also provide that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client. Rule 1.7(b) ABA MRPC.

The discovery related to this case indicates a potential conflict of interest. At least one witness has been identified as a former client of the Federal Public Defender. Further representation of Mr. Punzalan would require the impermissible cross-examination of the former client. Preliminary review of the discovery indicates that the former client provided statements adverse to Mr. Punzalan's interest. Thus, the Office of Federal Public Defender is compelled to withdraw from Mr. Punzalan's case. The ethically mandated zealous defense of Mr. Punzalan may be seriously compromised and called into question as a result of the above-mentioned prior representation. The Office of the Federal Public Defender can not continue to represent Mr.

Punzalan for the above-stated reason. Mr. Punzalan has been informed of this conflict and motion to withdraw.

DATED: Mongmong, Guam, September 7, 2007.


RICHARD P. ARENS
Attorney for Defendant
NATHANIEL DIAZ PUNZALAN

DECLARATION OF COUNSEL

I, RICHARD P. ARENS, hereby declare as follows:

1. That I am counsel for defendant, NATHANIEL DIAZ PUNZALAN, having been appointed pursuant to the Criminal Justice Act.
2. That at least one witness is a former client of the Office of the Federal Public Defender.
3. Further representation of Mr. Punzalan would require the impermissible cross-examination of the former client.
4. Preliminary review of the discovery indicates that the former client provided statements adverse to Mr. Punzalan's interest.
5. The ethically mandated zealous defense of Mr. Punzalan may be seriously compromised or called into question as a result of the above-mentioned prior representation.
6. Mr. Punzalan has been informed of this conflict and motion to withdraw.
7. That the facts and statements set forth in the foregoing document are true and

correct to the best of my knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: Mongmong, Guam, September 7, 2007.


RICHARD PARKER ARENS
Attorney for Defendant
NATHANIEL DIAZ PUNZALAN